

Via email: https://cara.ecosytem-management.org./Public//CommentInput?Project=60950

November 9, 2021

Jennifer Eberlien, Regional Forester

Pacific Southwest Region

1323 Club Drive

Vallejo, CA 94592

Re: R5 Post Disturbance Hazardous Tree Management Project

Dear Jennifer,

The American Forest Resource Council (AFRC) is a regional trade association whose purpose is to advocate for sustained yield timber harvests on public timberlands throughout the West to enhance forest health and resistance to fire, insects, and disease. We do this by promoting active management to attain productive public forests, protect adjoining private forests, and assure community stability. We work to improve federal and state laws, regulations, policies and decisions regarding access to and management of public forest lands and protection of all forest lands. AFRC represents over 50 forest product businesses and forest landowners throughout the West. Many of our members have their operations in communities adjacent to the Sierra and Sequoia National forests and the management on these lands ultimately dictates not only the viability of their businesses, but also the economic health of the communities themselves. Rural communities, such as the ones affected by this project, are particularly sensitive to the forest product sector. We appreciate the opportunity to comment on the proposed R5 Hazardous Tree Management Project.

**Background:**

The scoping letter dated October 25, 2021 explained “In 2020, 2.5 million acres of National Forest System (NFS) lands were impacted by wildfire, with substantial burning at the large landscape-scale. An additional 2.4 million acres have burned across all jurisdictions in California so far this year, and the 2021 fire season is still underway. Six of the seven largest wildfires in California history have occurred since 2020. These fires have created the need for significant hazard tree removal in order to address the threats posed to safety and property. The 2020 and 2021 fires killed or damaged trees adjacent to segments of thousands of miles of existing NFS roads and hundreds of facilities within the Pacific Southwest Region. Although some trees were felled and either left in place or removed during suppression activities, numerous killed or damaged trees remain adjacent to NFS roads and are likely to fall in the next three to five years.” I have personally observed these hazardous conditions on the Sierra (Creek Fire) and Sequoia National Forests (Castle, Windy and French fires).

**Purpose & need for the project:**

AFRC agrees that there is a need to reduce public safety hazards along portions of roads, trails, and facilities (campgrounds, trail heads, administrative sites). The scoping document outlines the processes necessary to mitigate these hazards, namely the felling of hazard trees with chainsaws. Tree falling is an extremely dangerous profession, even in stands of green timber. Those dangers are elevated when felling dead and dying timber. Those dangers are elevated even further when the felling of those dead and dying trees is delayed as the structural integrity of trees is diminished as rot and deterioration progress. Therefore, we urge the Forest Service to strive toward expedient completion of this analysis to permit the safest work environment possible for those forest workers tasked with the felling of these hazard trees. We appreciate the ambitious timeline outlined in the scoping document and hope the Forest Service is successful in meeting it.

We also agree that “there is a need to reduce fuel loading associated with felled hazard trees adjacent to portions of roads and trails, and near facilities (campgrounds, trail heads, forest service offices)” as stated in your scoping letter. There is opportunity for recovery of trees identified for removal in a manner that will not only address public safety risks and reduce fuel loading but also provide timber products to the local industry and generate income to the Forest Service. This opportunity can only be realized if implementation of the proposed EA is executed in a timely manner and fire-killed timber products are manufactured before their value is lost to decay, stain, or insect damage. We hope to see the mitigation of as many hazard trees along as many road miles as possible to ensure safe travel routes. We also hope that these trees can be mitigated economically through the recovery of damaged timber products rather than through alternatives that would create costs instead of generating revenue.

Adequate documentation of the Field Guide for Danger-Tree Identification is advisable given the ongoing challenges by special interest groups against hazard tree removal. Recent court rulings have indicated some confusion regarding the use of the Field Guide to identify hazard trees that have potential to impact roads. In particular, there have been questions regarding whether a specific tree poses an “imminent” hazard. Therefore, we recommend that you highlight and outline certain components of your guidelines in the final Decision-Memo/Notice including:

* Thorough explanation of tree falling dynamics on level ground, including the effects of wind events, force of breakage, and how fallen trees may impact other nearby trees (causing broken tops, etc.)
* Thorough explanation of tree falling dynamics on sloped ground, including the likelihood of downslope trees falling uphill
* Emphasis on how the Danger Tree Guidelines identify both the “Tree Failure Potential” and the “Potential Failure Zone.” Specifically note that any given tree has a Failure Zone and describe how that failure zone is determined.

**Standard utilization specifications used on green Forest Service timber sales will not likely be appropriate for the salvage sales generated from this EA**. Due to the damaged nature of the timber products being proposed for harvest, there will be an unusually high level of uncertainty by the Forest Service and prospective purchasers of the actual value of those products on the stump prior to harvest. This uncertainly is exacerbated by the fact that additional time for wood deterioration will elapse between the time of purchase and the time of harvest. Therefore, the Forest Service should be developing minimum removal requirements and utilization specifications that align with this uncertainly. Purchasers will recover as much value from these damaged products as possible. Requiring them to recover value that is not available will reduce the likelihood that these sales will successfully sell.

**Project Areas**

Hazard tree felling, removal, and fuel reduction is proposed in burned areas, identified by wildfire name (also referred to as project areas) within nine national forests within the North, Central Sierra and Southern Sierra sub-regional zones (see table 1). The project areas are delineated by the perimeters of the listed wildfires.

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| --- | --- | --- |
| **Table 1. National Forests by Zone** | **National Forest(s)** | **Project Areas (Name of Wildfire)** |
| North | Mendocino | August Complex, Ranch |
| North | Shasta-Trinity | Antelope, Lava, McFarland, Monument, River Complex, Salt, August Complex |
| North | Six Rivers | August Complex, Knob, McCash, Red Salmon, Slater |
| North | Klamath | Tennant, McCash, River Complex Cronan, River Complex Haypress |
| Central Sierra | Plumas | Dixie, North Complex, Camp |
| Central Sierra | Lassen | Dixie |
| Southern Sierra | Sierra | Creek Fire |
| Southern Sierra | Sequoia | KNP Complex, SQR Complex (Castle), Windy |
| Southern Sierra | Inyo | Dexter, Inyo Creek |

**The Proposed Action**

We support the proposed actions included in your scoping letter reference above. Key actions include:

1) Use of an EA (Environmental Analysis) instead of a CE (Categorical Exclusion) to minimize potential litigation which would delay or halt this critical project.

2) Use of the *Hazard Tree Guidelines for forest Service Facilities and Roads in the Pacific Southwest Region (USDA 2012).* We include current OSHA guidelines in our comments to emphasize and document that there is a significant risk from falling danger trees in the roadside corridors.

I retired from the Forest Service as a Regional Forester’s Representative (RFR) to train and certify Forest Service timber sale administrators in R5 and know from personal experience how hazardous OSHA defined danger trees can be. While it is accepted that a recently fire killed tree is not necessarily a danger tree as defined by OSHA in a roadside corridor setting, nearly all dead trees will rot and deteriorate to become danger trees to the road over time.

3) We support the use of the “most cost efficient and effectively treatment within each area will be chosen based on timing, equipment availablility, and cost treatment results.” To do otherwise would prevent effective implementation of the project.

4) Adverse project impacts will be avoided or mitigated by using Design Features and Best Management Practices (BMPs) to comply with laws, regulations, and policy as described in Appendix B of the Scoping Document.

Sincerely,

//*Jerry Jensen*//

Jerry Jensen

AFRC Contractor, South Sierra

cc: AFRC Members

Steve Brink, Vice President, CFA

**Enclosure: OSHA Rules for Hazard Trees (**provided by Steve Brink, CFA**)**

Danger Tree Identification and Mitigation References

Federal OSHA

* 29 CFR 1910 Subpart R: 1910.266 <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.266>
* 1910.266(c) "Danger tree." A standing tree that presents a hazard to employees due to conditions such as, but not limited to, deterioration or physical damage to the root system, trunk, stem or limbs, and the direction and lean of the tree.
* 1910.266(d)(6)(ii)

Work areas shall be assigned so that trees cannot fall into an adjacent occupied work area. The distance between adjacent occupied work areas shall be at least two tree lengths of the trees being felled. The distance between adjacent occupied work areas shall reflect the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at that work site. A distance of greater than two tree lengths shall be maintained between adjacent occupied work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

* 1910.266(h)(1)(vi)

Each danger tree shall be felled, removed, or avoided. Each danger tree, including lodged trees and snags, shall be felled, or removed using mechanical or other techniques that minimize employee exposure before work is commenced in the area of the danger tree. If the danger tree is not felled or removed, it shall be marked, and no work shall be conducted within two tree lengths of the danger tree unless the employer demonstrates that a shorter distance will not create a hazard for an employee.

Oregon OSHA

* Oregon Administrative Rules Oregon Occupational Safety and Health Division, Section 7
* Subdivision C; Planning, First Aid and Work; 437-007-0200; <https://osha.oregon.gov/OSHARules/div7/div7C.pdf> (2) Before work starts, a competent person must evaluate any danger tree(s) or snag(s) within reach of a work area to determine if it poses a hazard to personnel. If the tree(s) or snag(s) poses a hazard, it must be felled, or the work arranged to minimize danger to workers
* Subdivision F; 437-007-0500 Roads; <https://osha.oregon.gov/OSHARules/div7/div7F.pdf> (6) On those portions of roads under the direct control of the employer: (a) All danger trees that can fall or slide onto roadways must be felled. (b) Loose rocks, stumps and other materials which present a hazard must be secured or cleared from banks1910.266
* Subdivision I; 437-007-0800 General Requirements; <https://osha.oregon.gov/OSHARules/div7/div7I.pdf> (3) The minimum distance between any worker(s) manually falling trees and any other personnel must be twice the height of the trees being felled.
* Subdivision I; 437-007-0805 Mechanical Falling; (1) The minimum distance between mechanical falling machines or personnel must be twice the height of the trees being felled.
* Subdivision J; 437-007-0927 <https://osha.oregon.gov/OSHARules/div7/div7J.pdf> Working near Standing Tree Anchors and Tail/Intermediate Support Trees; (6) If the potential failure zone cannot be determined, personnel must move at least 1 ½ tree lengths from the base of tail and intermediate support trees, and in the clear before lines are tensioned.
* Oregon OSHA Yarding and Loading Handbook, <https://osha.oregon.gov/OSHAPubs/1935.pdf>
* Page 17 Danger Trees - The following five-step process to evaluate danger trees summarizes a comprehensive plan in Field Guide for Danger Tree Identification and Response (2008) by the U.S. Forest Service Pacific Northwest Region and Bureau of Land Management. Consult the field guide for practical details and use its color photographs to help identify specific defects and diseases.
  + - Step 3. Determine the failure zone.

The failure zone is determined first by identifying the part of the tree likely to fail: the entire tree, tree-top, branches, or bark. The failure zone is the area that could be reached by any part of a failed tree. The setting also matters. A failed tree on a slope can slide or roll; a failed tree could strike other trees and make them fail as well; or strike other trees or debris on the ground and fling material a considerable distance. Add distance to the failure zone as necessary to account for these additional factors.

On level ground with no lean, the failure zone is a circle around the base of the tree with a radius at least 1-1/2 times the tree height. With a leaning tree or a slope, the area behind the lean is not in the direction of fall but is included in the failure zone to account for backlash (see diagrams).





US Forest Service

* The Forest Service Handbook (FSM) 7709.59, Chapter 40 <https://www.fs.fed.us/cgi-bin/Directives/get_dirs/fsh?7709.59>
  + 40.3 – Policy See FSM 7733.03 for additional policy on safety for NFS roads that are public roads and safety of bridges on NFS roads.
    - 1. Safety is a critical consideration in road operation and maintenance and should be taken into account along with other applicable considerations, such as environmental protection (sec. 40.1, para. 4).
    - 2. NFS roads should be managed for safe passage by road users, including appropriate management of roadside vegetation involving considerations such as motorist sight distance, clear visibility of road signs, and identification and mitigation of danger tree hazards per section 41.7, paragraph 2.
    - 3. Identification of danger tree hazards should be performed by a qualified person as defined in this chapter.
    - 4. Action should be taken as soon as practicable when high-priority danger tree hazards have been identified along NFS roads or road segments. Action includes mitigation and, if mitigation is not possible, closing the road, per section 41.7, paragraph 2.
* United States Department of Agriculture: Field Guide for Danger-Tree Identification and Response along Forest Roads and Work Sites in Oregon and Washington (2016). <https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd512960.pdf>
* Forest Service Pacific Northwest Region and Bureau of Land Management; Field Guide for Danger Tree Identification and Response (2008) <https://www.blm.gov/or/districts/medford/plans/files/fieldguidedangertree.pdf>

*(Replaced by the United States Department of Agriculture: Field Guide for Danger-Tree Identification and Response along Forest Roads and Work Sites in Oregon and Washington (2016).*